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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,964

06/09/2004

Wayne R. Stevens

2003-008

3963

32170

7590

11/22/2005

U.S. ARMY TACOM-ARDEC

ATTN: AMSTRA-AR-GCL

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PICATINNY ARSENAL, NJ 07806-5000

EXAMINER

KLEIN, GABRIEL J

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/709,964		STEVENS ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Gabriel J. Klein		3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-5 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.                                                             | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1, drawn to an adapter device for converting a grenade launcher into a weapon for firing shot shells, classified in class 42, subclass 77.
- II. Claim 5, drawn to a replacement barrel assembly, classified in class 42, subclass 76.01.

Inventions II and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are:

- Not usable together, since invention I is installed in the barrel of a grenade launcher while invention II replaces the barrel of a grenade launcher, and have
- different modes of operation, since invention I operates with the cooperation of an entire grenade launcher, while invention II replaces a substantial portion of a grenade launcher.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Robert Beam on November 17, 2005 a provisional election was made without traverse to prosecute the invention of I, claims 1-

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4. Affirmation of this election must be made by applicant in replying to this Office action.

Claim 5 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### ***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration.

It does not present the signatures of either inventor in a proper manner. The signatures, if typed, must be contained within slash marks like so: /Your Name Here/.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (5148620) in view of Callies (4455777) and further in view of Knode et al (3339304).

Nelson discloses shot shell size adapter for grenade launchers (abstract, lines 1 and 2). The adapter of Nelson comprises an elongate barrel member of a gauge for shot shell (figures 1 and 2, element 10, and column 2, lines 36-40) adapted to be received in, and extend through, the barrel of the host barrel assembly of a grenade launcher (column 2, lines 57-65). Further, Nelson discloses that said elongate barrel member comprises a 12 gauge barrel (column 1, lines 19 and 53).

Nelson discloses the claimed invention except for the cap and the shell extractor.

- Callies teaches that it is known to use a cap, threaded on the muzzle end of a gauge reducing auxiliary barrel (that is mounted inside the host barrel of a weapon), as set forth in column 3, paragraph 4, and figure 1, element 37, to provide the substitute barrel with a centered orientation within the host barrel, therefore providing the substitute barrel with steadier aim and security. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the shot shell size adapter as taught by Nelson, with the cap as taught by Callies, since such a modification would provide the shot shell size adapter with the cap for providing a centered orientation within the host barrel, therefore providing the substitute barrel with steadier aim and security.

- Knode et al teaches that it is known to use a spring-biased shell extractor, mounted on the breech end of a gauge reducing auxiliary barrel (that is mounted inside the host barrel of a weapon), as set forth in column 3, paragraph 1, to provide ejection means for cartridges disposed in said auxiliary barrel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the adapter device as taught by Nelson in view of Callies (mentioned above), with the spring-biased extractor as taught by Knode et al, since such a modification would provide the adapter device with the spring-biased extractor for providing ejection means (with the limiting influence of a spring) for cartridges disposed in said adapter device.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dial (2457354) discloses a subcaliber attachment for a gun that comprises a coil-spring biased extractor.

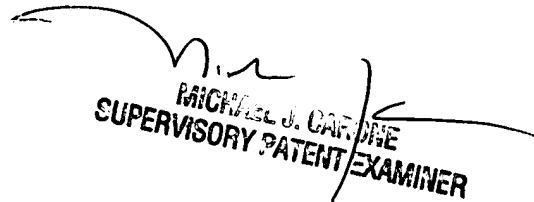
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel J. Klein whose telephone number is 571-272-8229. The examiner can normally be reached on Monday through Friday 7:15 am to 3:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GJK

  
MICHAEL J. CARBONE  
SUPERVISORY PATENT EXAMINER